

**IN THE MATTER OF:**

**COMPREHENSIVE FISH AND WILDLIFE ) Administrative Cause**  
**RULES ENHANCEMENT PROJECT ) Number: 08-061D**

**REPORT OF THE DIVISION OF HEARINGS WITH RESPECT TO  
SUGGESTED SUBSTANTIVE AMENDMENTS RECOMMENDED FOR  
FUTURE RULE AMENDMENTS**

At the January 12, 2010 meeting of the Natural Resources Commission (“NRC”), the Division of Hearings was tasked with moving forward the substantive amendments that the Natural Resources Advisory Council (“NRAC”) recommended for rule adoption. As part of that task, the Division of Hearings was requested to report “timeframes and benchmarks” for those items at the March, 2010 meeting of the NRC.

The six (6) items identified in Subsection A of the NRAC’s December 22, 2009 report that were recommended to proceed for rule adoption are addressed individually, below.

Item #A1: The extension of the running season for raccoon dogs.

This item is being presented for preliminary adoption at the March 2010 NRC meeting as a part of the Department’s “Dog Running, Raccoon and Opossum Season” rule amendment offering. This rule amendment package also addresses the NRAC’s Item #B2 recommendation to extend raccoon and opossum seasons.

Item #A2: Display of hunter orange on occupied ground blinds

In consultation with the Department it has been determined that this rule, as it applies to deer hunting, should be included in the deer rule amendment package that is being prepared for preliminary adoption in response to the NRAC’s Item #B4 recommendation.

The suggestion received from the public relating to this issue pertained to deer hunting but the NRAC’s report reflects its apparent intent that this rule amendment would apply to all types of hunting involving the use of ground blinds, which would include turkey and waterfowl hunting. The Division of Hearings and the Department would request clarification as to the NRAC’s intent that corollary rule amendments applicable to turkey and waterfowl hunting be pursued.

Item #A3: The establishment of a 14” size limit for the harvest of small mouth bass

The Department’s Division of Fish and Wildlife has prepared a report, attached as Exhibit A, that explains that the “DNR fisheries biologists are currently revising the Division of Fish and Wildlife strategic plan for Rivers and Streams”, including management considerations associated with smallmouth bass. Within its report the

Department states its intent to present its report for discussion and consideration at the July 20, 2010 NRC meeting.

Item #A4: Telecheck for deer and turkey seasons

The Department is committed to bringing telecheck forward but is unable, due to a lack of funding, to do so at this time. It is suggested that this item be deferred for further consideration at the September or November 2010 NRC meeting.

Item #A5: Establishment of a comprehensive deer hunting license

The comprehensive license was recommended by the NRAC to address multiple weapons and multiple seasons, and if this license were established based on current seasons and the current license scheme, it is possible that the planned future comprehensive update of the deer hunting rules would create a conflict causing the immediate need to amend the rule that establishes this license. Therefore, it is recommended that this substantive amendment be addressed contemporaneously with the Department's deer rule amendment package that is being prepared for preliminary adoption in response to the NRAC's Item #B4 recommendation.

Item #A6: Allow crossbow use by senior hunters

The concern with going forward with this rule at this time is that the same rule might be included for other reasons in the upcoming deer hunting rule amendment package. To avoid processing an amendment to a rule that is already undergoing an amendment, which is not only confusing to the public but is tedious for staff, it is recommended that this rule amendment be deferred for inclusion in the upcoming deer rule package in response to the NRAC's Item #B4 recommendation.

Date: February 23, 2010

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Sandra L. Jensen  
Administrative Law Judge

## **Exhibit A**

### **Smallmouth Bass Regulatory Issue**

Most of Indiana's streams are regulated under a 12 inch minimum size limit and 5 fish daily bag limit for black bass, an aggregate term that includes smallmouth, largemouth and spotted bass. This regulation, enacted in 1998, appears to be working well to provide baseline bass protection throughout Indiana. However, following in-depth stream investigations, special regulations were tailored at two very important stream bass fisheries – Sugar Creek in western Indiana and the Blue River in southern Indiana. These two streams represent extremes in Hoosier smallmouth populations. Sugar Creek's population is characterized by excellent growth rates and has shown its ability to produce both good numbers and good size of bass. A special 20 inch size limit and one fish bag limit on black bass is undergoing evaluation on Sugar Creek and appears to be maintaining the excellent smallmouth fishery. At Blue River, the smallmouth population was characterized for years by abundant but small and very slow-growing fish. Following the research, a 12-15 inch slot size limit was applied. Bass in this size range must be released but smaller and larger fish may be taken. This regulation is designed to thin out over-abundant little bass while protecting sexually mature bass, thereby improving growth and overall size of bass in this stream. It also is currently being evaluated and appears to be having the desired effect. Fishing quality is on the upswing.

Smallmouth bass throughout Indiana's many different streams and watersheds do not all grow and behave the same. A larger, 14 inch size limit broadly applied across the state may in fact promote slow growth and stockpiling of bass in some streams, be beneficial in others and inconsequential and unnecessary at other waters. Fish harvest data collected in recent years indicate that a large number of anglers are already releasing all smallmouth bass they catch. In fact, the data do not support an assumption that bass harvest is limiting the overall quality of Indiana smallmouth bass fishing. The most important factors affecting smallmouth bass abundance, growth and survival are related to habitat changes, flooding, sedimentation, and nonpoint source pollution.

DNR fisheries biologists are currently revising the Division of Fish and Wildlife strategic plan for Rivers and Streams. This includes management objectives for smallmouth bass of which regulatory protection is an important element. Our fisheries biologists statewide are meeting in March for in-depth discussion on the revised plan. The updated management objectives and directions will be developed by mid-year and a summary of this review will be presented at the July meeting of the Natural Resources Commission for discussion and comment.

The Indiana DNR recognizes and appreciates the significant interest in smallmouth bass by Indiana anglers. Resource managers and anglers alike, want the best possible smallmouth bass fishing in terms of the number and size of fish available. As resource managers, DNR fisheries biologists want to be sure that in the well-intended efforts to insure the best for anglers, we do not take an action that would actually hurt some fisheries and decrease quality smallmouth fishing opportunities.